

REMARKS

Claims 1-10 are pending in this application. Claims 1-10 stand rejected. In light of the remarks set forth below, Applicant respectfully submits that each of the pending claims is in immediate condition for allowance.

Claims 1-7 and 10 stand rejected under 35 U.S.C. § 102(e) as being anticipated by U.S. Patent No. 6,330,586 (“Yates”). Applicant respectfully requests reconsideration and withdrawal of this rejection.

To anticipate a claim under 35 U.S.C. § 102, the cited reference must disclose every element of the claim, as arranged in the claim, and in sufficient detail to enable one skilled in the art to make and use the anticipated subject matter. See, PPG Industries, Inc. v. Guardian Industries Corp., 75 F.3d 1558, 1566 (Fed. Cir. 1996); C.R. Bard, Inc. v. M3 Sys., Inc., 157 F.3d 1340, 1349 (Fed. Cir. 1998). A reference that does not expressly disclose all of the elements of a claimed invention cannot anticipate unless all of the undisclosed elements are inherently present in the reference. See, Continental Can Co. USA v. Monsanto Co., 942 F.2d 1264, 1268 (Fed. Cir. 1991).

In response to Applicant’s previous arguments, the Examiner asserts that the terminal domain acts as a broker between users and service providers by service provisioning system at the functional host layer. Applicant respectfully disagrees with this position.

Yates is silent as to a service broker at the functional host layer of a network service management device cluster. In fact, Yates utilizes a terminal agent which is responsible for representing terminal resources when interacting with other domains. Typically, the terminal agent negotiates standards relating to its resources, including terminal resources, interface capabilities, memory devices, communication ports and capabilities, operating systems, and the like. See col. 15, lns. 49-63. Further, it should be noted that each agent represents its own domain such that when there is a request for service by a user, each of the agents would interact and the user would receive a response based on the outcome of these interactions. See col. 15, lns. 37-40.

In contrast, Applicant explicitly recites a service broker device at the functional host layer of said network service management device. The service broker is positioned at the functional host level of the network and provides a broker function for achieving agreement between a plurality of providers. Thus, the network service management devices are not negotiating with each other as disclosed in the Yates reference. Applicant therefore requests reconsideration and withdrawal of this rejection.

Paragraph 15 of the Office Action rejects claims 8 and 9 under 35 U.S.C. § 103(a) over Yates in view of U.S. Patent No. 6,594,700 ("Graham"). Applicant respectfully requests reconsideration and withdrawal of this rejection.

Graham was not added to show a service broker device at a functional host layer of a network but to show additional limitations which, even if it were to show,

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do not cure the deficiency discussed above. Therefore, Applicant asserts that claims 8 and 9 are allowable over the cited references.

Applicant has responded to all of the rejections and objections recited in the Office Action. Reconsideration and a Notice of Allowance for all of the pending claims are therefore respectfully requested.

In view of the above, each of the presently pending claims in this application is believed to be in immediate condition for allowance. Accordingly, the Examiner is respectfully requested to withdraw the outstanding rejection of the claims and to pass this application to issue.

If the Examiner believes an interview would be of assistance, the Examiner is welcome to contact the undersigned at the number listed below.

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Respectfully submitted,

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